

### **Remarks/Arguments**

The Office Action stated that Claims 1 to 22 are currently pending in the instant application. Claims 1, 6, 14 and 22 have been amended.

The Office Action stated that the instant application is a 371 of PCT/EP04/09690, filed on August 31, 2004, and claims benefit of foreign application EPO 03077734.6, filed on September 1, 2003.

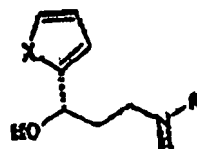
The Office Action stated that the information disclosure statement (IDS) submitted on April 7, 2006 is in compliance with the provisions of 37 CFR 1.97; and that, accordingly, the information disclosure statement has been considered by the Examiner.

The Office Action stated that applicants' election with traverse of Group I in the reply filed on March 27, 2007 is acknowledged. The Office Action stated that the traversal is on the ground that: (1) the Examiner stated in the Restriction Requirement that a precise listing of inventive groups cannot be made; and (2) the statement "the claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the compound defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art" as being a mere assertion that is not supported by facts and factual analysis in the record.

The Office Action stated that all of the applicants' arguments have been considered but have not been found persuasive; that it is pointed out that the restriction requirement is made under 35 U.S.C. 121; that 35 U.S.C. 121 gives the Commissioner (Director) the authority to restrict applications to several claimed inventions when those inventions are found to be independent and distinct; and that the Examiner has indicated that more than one independent and distinct invention is claimed in this application and has restricted the claimed subject matter accordingly.

The Office Action stated that applicants argue that the statement "the claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the compound defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art" as being a mere assertion that is not supported by facts and factual analysis in the record.

The Office Action stated: that, however, the Examiner points out that the reference is used to solely show that the special technical feature in applicants' claims does not show a contribution over the prior art; that the special technical feature of the applicants' claims should link all of the claims together and the common link is the compounds that contain the following core excluding the variables



; and that

the special technical feature is known in the prior art and therefore the applicants' claims lack unity of Invention.

The Office Action stated that the Examiner has decided to combine Group I and II and examine Claims 1 to 11 and 13 to 21, drawn to a process for the preparation of compounds of formula (I) wherein: X is O or S and R represents hydrogen or C<sub>1-6</sub> alkyl, C<sub>3-8</sub> cycloalkyl, aryl or aralkyl. Claim 22 has been amended to additionally recite that R is hydrogen, C<sub>1-4</sub>-alkyl, C<sub>3-8</sub>-cycloalkyl, aryl or aralkyl so Claim 22 is also within the elected invention and should also be examined.

The Office Action stated that subject matter not encompassed by elected Group I and II is withdrawn from further consideration pursuant to 37 CFR 1.142 (b), as being drawn to nonelected inventions. Applicants still reserve the right to file a divisional and/or continuing application drawn to the nonelected inventions.

Claims 1, 6 and 14 have been objected to because of the following informalities: Claim 1 has a misspelled term "C<sub>1-4</sub> alkyl" in variable R; and Claims 6 and 14 have the misspelled term 'flene'.

The Office Action stated that appropriate correction is required. These corrections have been made.

This objection should be withdrawn.

The Office Action stated that applicants are reminded of the proper content of an Abstract Of The Disclosure:

In chemical patent abstracts for compounds or compositions, the general nature of the compound or composition should be given as well as its use, e.g., "The compounds are of the class of alkyl benzene sulfonyl ureas, useful as oral antidiabetics." Exemplification of a species could be illustrative of members of the class. For processes, the type reaction, reagents and process conditions should be stated, generally illustrated by a single example unless variations are necessary.

The Office Action stated that complete revision of the content of the abstract is required on a separate sheet. The Abstract has been revised.

The Office Action stated that the disclosure is objected to because of the following informalities: a missing period at the end of the specification on page 12.

The Office Action stated that appropriate correction is required. This correction has been made.

This rejection should be withdrawn.

The Office Action stated that the declaration does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

The Office Action stated that receipt is acknowledged of papers filed under 35 U.S.C. 119 (a - d) based on an application filed in EPO on September 1, 2003.

The Office Action stated that Applicants have not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application.

The Office Action stated that a new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date. An application data sheet is enclosed that identifies the present application, the PCT application and the European priority application. For the record, sole inventor Hans-Peter Mettler is deceased.

Reconsideration, reexamination and allowance of the claims are requested.

Respectfully submitted,

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Date

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